

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DEREK FOLLEY,

Plaintiff,

:

Case No. 3:22-cv-16

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

BARBARA P. GORMAN, et al.,

:

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (ECF No. 71) to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, it is hereby ORDERED that the complaint is DISMISSED without prejudice to the merits of Plaintiff's asserted constitutional violations. Because reasonable jurists would not disagree with this conclusion, the Court hereby certifies to the United States Court of Appeals that an appeal would be objectively frivolous and therefore Plaintiff should not be permitted to proceed *in forma pauperis*.

Pursuant to Fed. R. Civ. P. 58, the Clerk shall enter judgment to this effect.

April 5, 2022.

s/Thomas M. Rose

Thomas M. Rose
United States District Judge